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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/652,342	09/02/2003	Kenji Shimoyama	990342A	1627
23850	7590 12/23/2003		EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW			JACKSON JR, JEROME	
SUITE 1000	EI, NW		ART UNIT	PAPER NUMBER
WASHINGTON, DC 20006			2815	

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    The MAILING DATE of this communication appears on the cover sheet with the correspondence address   Period for Reply	Office Action Summary		Application No.	Application No. Applicant(s)						
### Decided for Reply  ### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  ### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  ### Extension of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled the provision of 17 the protein of the provision of 18 the protein of 18 the p			10/652,342	SHIMOYAMA ET AL.						
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filled  If the profice of reply specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication or profit profit above is less than they (30) days, will be considered timely,  If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the statutory form of the mailing and of this communication.  Failure to reply within the set or extended period for reply vills, by statute, cause the application to become ABMOONED (51 S.C. \$ 133).  Failure to reply within the set or extended period for reply vills, by statute, cause the application to reply the Office later than these months after the mailing date of this communication, even if timely filed, may reduce any search reply received by the Office later than these months after the mailing date of this communication, even if timely filed, may reduce any search reply the ABMOONED (51 S.C. \$ 133).  Responsive to communication(s) filed on			Examiner	Art Unit						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled after SIX (6) MONTHS from the mailing date of this communication.  If the period for reply specified above, the massimum statutory period vill apply within the statutory minimum of thirty (30) days will be considered timely.  If NO period for reply is periodical above, the massimum statutory period vill apply and will expire SIX (6) MONTHS from the mailing date of this communication.  Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C.§ 133).  Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C.§ 133).  Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C.§ 133).  Failure to reply within the set or extended period for reply will, by statute, cause the application is communication.  Failure to reply within the set or extended period for reply will, by statute, cause the application is even if timely filed, may reduce any secure application is formed paint term adjustment. See 37 CFR 1.784(b).  Status  1) Responsive to communication(s) filed on										
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<ul> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> </ul>	Priority under 35 U.S.	.C. §§ 119 and 120								
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> <li>13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.</li> <li>37 CFR 1.78.</li> <li>a) The translation of the foreign language provisional application has been received.</li> <li>14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.</li> </ul>										
Attachment(s)	Attachment(s)									
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	2) 🔲 Notice of Draftspersor	on's Patent Drawing Review (PTO-948)	5) Notice of Informal Pa							

Art Unit: 2815

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 16-19, drawn to a process, classified in class 438, subclass 15+.
- II. Claims 1-15, drawn to a device, classified in class 257, subclass 95.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as using a masking process to form the ridge shaped epitaxial layer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Application/Control Number: 10/652,342 Page 3

Art Unit: 2815

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 703 308 4937. The examiner can normally be reached on t-th 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 703 308 2772. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

jj

JEHOOMEJACKSON PRIMARY EXAMINER